

It would appear from a paper dated the 23rd of February, 1844, and filed with the answer of Thomas to the original bill, that he knew of the existence of judgments of elder date than his own, and that a deficiency of the trust estate was a possible, not to say probable, contingency; and it is, therefore, very questionable, whether he can be permitted, in concert with the trustees, to secure such an application of the trust estate to the payment of his own debt, as shall disappoint or prejudice prior incumbrancers. But, whether this be so or not, there seems on the part of the complainant, who paid his money to the trustees, an equity superior to that of Thomas, who took land in satisfaction of a junior, when elder liens remained outstanding. If this arrangement between Thomas and the trustees is to stand to the prejudice of Doub, the complainant, that is, if Thomas shall keep all he has received, and the judgment creditors are thrown upon the land purchased by the complainant, then he will be compelled to pay for his land a second time, while Thomas will not have paid once for his; because, upon the hypothesis, that the trust fund would have been exhausted in paying judgments prior in date to his, the judgment held by him was of no value.

I do not think the objection upon the ground of multifariousness is well taken.

The original bill sought relief against Thomas upon the ground, that the judgment, in part satisfaction of which he received the land from the trustees, was younger than those for which the complainant's land was about to be sold; and therefore, equity required that he (Thomas) should be made to pay, before the complainant should be compelled to pay for his land a second time.

That bill was founded upon the idea that this defendant had, by arrangement with the trustees, secured to himself an advantage against which equity would relieve, upon the application of a party prejudiced. The amended bill proceeds upon the supposition, that the same judgment (in respect of which the inequitable advantage charged in the original bill, is said to have been secured) is tainted with usury, and upon that ground prays for relief against it.